



WORLD TELECOMMUNICATION
STANDARDIZATION ASSEMBLY



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Standards and Intellectual Property Rights in ITU

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IPRs:

- Standard Essential Patents (SEPs)
- Software Copyright
- Trademarks

ITU-T governing documents:

- Common ITU-ISO-IEC Patent Policy, licensing declaration forms and related Guidelines for Implementation of the patent policy.
- Software Copyrights Guidelines and licensing declaration forms.
- Trademark Guidelines.
- [Intellectual Property Rights \(IPRs\) \(itu.int\)](http://www.itu.int/wtsa2024)

SEPs and common ITU-ISO-IEC patent policy

- Patent: a legal monopoly awarded to IPR owners on a specific technology
- Standard Essential Patents (SEPs), may be necessary for the implementation of an ITU-T standard
- Patent policy and licensing declaration form:
 - Enable IPR owners, ITU-T and ITU-T members to inform and be informed of SEPs potentially applicable to ITU-T Recommendations and under which conditions.
 - Tools to help ensuring ITU-T standards can be widely implemented.

Fundamental Principles of the Common Patent Policy

- Timely disclosure of SEPs or pending SEPs applications
- Accessibility of essential patents to everyone under reasonable and non-discriminatory conditions (“RAND”)
 - Option 1: Royalty-free, though other reasonable terms may apply
 - Option 2: Royalty and reasonable terms
 - Option 3: SEP owner is not willing to comply with option 1 or 2 above. The ITU-T Recommendation cannot include provisions depending on the specific SEP
- Actual licensing terms and conditions are handled in bilateral negotiations between SEP owners and implementers of the Rec.
- Commercial Licensing disputes are settled outside of ITU.
- ITU is not in a position to give authoritative or comprehensive information about evidence, validity or scope of patents or similar rights
- Disclosure only through Patent Statement and Licensing Declaration Form. Despite its name, the Licensing Declaration Form is *not* a License Agreement. Once submitted, a Form containing licensing commitments cannot be withdrawn and cannot contain additional conditions.
- ITU maintains an online database of all submitted Forms

Additional resources

- Common Patent Policy
 - Guidelines for implementation: http://www.itu.int/dms_pub/itu-t/oth/04/04/T04040000010004PDFE.pdf
 - Publication on Patents, competition and standardization (non-authoritative): http://www.itu.int/en/ITU-T/Documents/Manual_Patents_Final_E.pdf

Chairs and rapporteurs responsibilities

- ITU-T A.1 section 1.4.6
- Chairmen will ask, during each meeting, whether anyone has knowledge of intellectual property rights issues, including patents, copyright for software or text, marks, the use of which may be required to implement or publish the Recommendation being considered. The fact that the question was asked shall be recorded in the working party or study group meeting report, along with any affirmative responses.
- ITU A.1 section 2.3.3.12
- Rapporteurs will ask, during each meeting, whether anyone has knowledge of intellectual property rights issues, including patents, copyright for software or text, marks, the use of which may be required to implement or publish the Recommendation being considered. The fact that the question was asked shall be recorded in the meeting report, along with any affirmative responses.

| A.5 Procedures for Referencing documents from other organizations

- Clause 6.1: ... It is preferred that, rather than making reference to an entire document from an outside organization, reference be made to only the specific section(s) concerned.
- **Process prior to the incorporation requires in particular:**
 - Justification for the specific reference - clause 6.2.3
 - Identification of intellectual property rights (patents, copyrights for software or texts, marks) issues, if any - clause 6.2.4
 - Qualification of the organization per Annex B of ITU-T A.5 - clause 6.2.9, and 7
- **Qualification process of the organization:**
 - Clause 7.1.1: Qualification of the referenced organization by a SG or WP according to Annex B, based on an explicit assessment of the intellectual property rights (IPR) policies by the ITU secretariat, shall be conducted before considering a normative reference from that organization. If the referenced organization has already been qualified ... the evaluation may not need to be repeated...
 - Clause 7.2: Qualification of an organization ... is reviewed on a regular basis by SGs that need to make normative references to documents of that organization. In particular, if the patent policy of that organization has changed, it is important to check that the new patent policy is consistent with the Common Patent Policy ... and the Guidelines for the Implementation of the Common Patent Policy...

A.25 Incorporation of text from another organization

- This process is expected to be rarely used because ITU-T study groups are encouraged to rather use the normative reference process explained in [ITU-T A.5]. – clause 6.
- ITU-T study groups are strongly encouraged to incorporate approved text rather than draft text from other organizations and, whenever possible, to incorporate text without modification. clause 6.1
- **Process prior to the incorporation requires in particular:**
 - Justification for the specific incorporation, including why referencing is inappropriate - clause 6.1.2.3
 - Qualification of the organization per Annex B of ITU-T A.5 - clause 6.1.2.9
 - Identification of intellectual property rights (patents, copyrights for software or texts, marks) issues, if any - clause 6.1.2.4
 - Identification of all normative references within the incorporated document – clause 6.1.2.8
 - Agreement by the other organization of the use of its text in ITU-T recommendation – clause 6.2.1
 - Copyright arrangement between TSB and the organization.

IPR in Annex B of A.5 Criteria for qualifying organizations

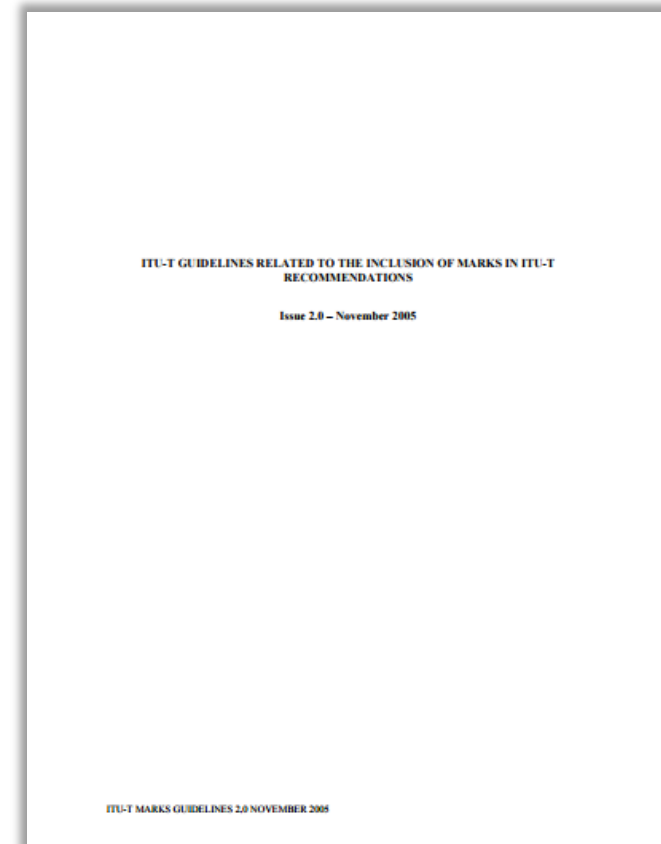
<p>Intellectual Property Rights Policy and Guidelines on</p> <ul style="list-style-type: none">a) Patentsb) Software copyright (if applicable);c) Marks (if applicable); andd) Copyright	<ul style="list-style-type: none">a) should be consistent with the "Common Patent Policy for ITU-T/ITU-R/ISO/IEC" and the "Guidelines for Implementation of the Common Patent Policy for ITU-T/ITU-R/ISO/IEC"*;b) should be consistent with the "ITU-T Software Copyright Guidelines"*;c) should be consistent with the "ITU-T Guidelines related to the inclusion of Marks in ITU-T Recommendations";d) ITU and ITU Member States and Sector Members should have the right to copy for standardization-related purposes (see also [ITU-T A.1] with regard to copying and distribution, or [ITU-T A.25] with regard to incorporation, with or without modification). <p>Relevant IPR policy documents of the referenced organization shall be attached to this table for the record</p>
<p>* Particularly, licences must be offered on a non-discriminatory basis and on reasonable terms and conditions (whether free of charge or with monetary compensation) to both members and non-members.</p>	

Fundamental Principles of the Trademark Guidelines

- Guidelines apply to *mark*TM, *mark*[®], *mark*SM, and certification marks
- ITU Recs. must not appear to endorse any particular product or brand. Consequently, use of TMs in Recs. should be avoided
- Cases where inclusion of TMs may be allowed (non-endorsement):
 - TM is contained in the designation of a referenced standard (“ISO/IEC xxx”)
 - TM is a well known short-hand reference to a standardized approach (e.g., Wi-Fi, Bluetooth)
 - Seek guidance of TSB on how to ensure **descriptive use** of the TM in question.
- All inclusion of trademarks in Recs. are subject to approval by TSB
- If the use of a mark would require a license, then it should not be included in a Recommendation
- If, during development of Rec., a Study Group devises a name, mark or proprietary description of the Rec. or its standardized approach that it believes should be protected for use by those implementing the Recommendation, the Study Group should so advise the TSB Director

Trademark Guidelines

- One document:
 - Guidelines related to the inclusion of Marks in ITU-T Recommendations
- No Declaration Forms
- Guidelines Specific to ITU-T
(Unlike the Common ITTU-ISO-IEC Patent Policy)
- www.itu.int/ITU-T/ipr/

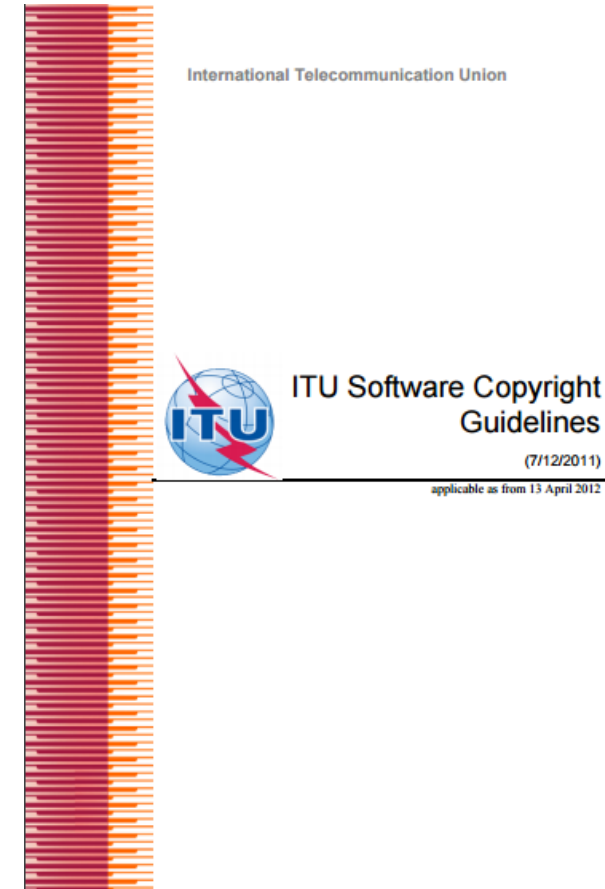


Fundamental Principles of the Software Copyright Guidelines

- Software (SW) generally should not be included in Recs. SGs should consider alternatives before considering the inclusion of SW
- When the inclusion of SW is judged appropriate, the following shall be observed:
 - SW shall never be included in an ITU Recommendation such that there is a requirement to incorporate that Software in a conformant implementation (exceptions apply: e.g. ASN1, data structure)
 - SW shall be contributed in source code.
 - Copyrighted SW shall meet the licensing requirements in the software guidelines
 - All SW copyright holders shall submit a SW Copyright Statement and Licensing Declaration in connection with any contribution of SW before such contribution is included in a Rec.
- all SW included in a Rec. shall be made available for free for ITU members / implementers for evaluation/testing purposes
 - Implementers considering including such software in their implementation should consult the database containing information about submitted Software Copyright Statement and Licensing Declaration forms to ascertain under which option the Software Copyright Holder is willing to provide a license
- Keep in mind: there may also be patent-related issues with use/distribution of software included in ITU Recs

Software Copyright Guidelines

- Two documents to consider:
 - Software Copyright Guidelines
 - Software Copyright Statement and Licensing Declaration Forms
- These documents may be found at www.itu.int/ITU-T/ipr/
- Unlike the Common Patent Policy, these Guidelines are specific to ITU only





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Thank you